

§ 1307.8

applicable to subcontractors, transferees, successors in interest, and other participants.

(b) In the case of real property, structures or improvements thereon, or interests therein, acquired with TVA financial assistance, or in the case where financial assistance was provided in the form of a transfer by TVA of real property or interest therein, the instrument effecting or recording the transfer of title shall contain a covenant running with the land assuring compliance with this part and the guidelines contained herein for the period during which the real property is used for a purpose for which the TVA financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved with of TVA financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained by transfer from TVA, the covenant against discrimination may also include a condition coupled with a right to be reserved by TVA to revert title to the property in the event of a breach of the covenant where, in the discretion of TVA, such a condition and right of reverter is appropriate to the statute under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, TVA may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

[45 FR 22895, Apr. 4, 1980, as amended at 68 FR 51356, Aug. 26, 2003]

§ 1307.8 Compliance information.

(a) *Cooperation and assistance.* TVA shall to the fullest extent practicable seek the cooperation of recipients in

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obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to TVA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as TVA may determine to be necessary to enable it to ascertain whether the recipient has complied or is complying with this part. In the case which a primary recipient extends financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by TVA during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as TVA may require to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and set forth the efforts it has made to obtain the information.

(d) *Information to employees, beneficiaries and participants.* Each recipient shall make available to employees, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program or activity for which the recipient receives financial assistance, and shall make such information available to them in such manner, as TVA finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this part.

[45 FR 22895, Apr. 4, 1980, as amended at 68 FR 51356, Aug. 26, 2003]

§ 1307.9 Conduct of investigations.

(a) *Periodic compliance reviews.* TVA shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any individual who claims (individually or on behalf of any specific class of individuals) to have been subjected to discrimination prohibited by this part may, personally or by a representative, file with TVA a written complaint. A complaint must be filed not later than ninety (90) days from the date of the alleged discrimination, unless the time for filing is extended by TVA.

(c) *Investigations.* TVA will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation shall include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, TVA will so inform the recipient and the matter will be resolved by informal means whenever possible. If TVA determines that the matter cannot be resolved by informal means, action will be taken as provided for in §1307.10.

(2) If an investigation does not warrant action pursuant to paragraph (d) (1) of this section, TVA will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 504 or this part, or because the individual had made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 1307.10 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue financial assistance or by any other means authorized by law. Such other means may include, but are not to be limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, (2) institution of appropriate proceedings by TVA to enforce the provisions of the agreement of financial assistance or of any deed or instrument relating thereto, and (3) any applicable proceeding under State or local law.

(b) *Noncompliance with §1307.7.* If any entity requesting financial assistance from TVA declines to furnish the assurance required under §1307.7, or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, financial assistance may be refused in accordance with the procedures of paragraph (c) of this section; and for such purposes, the term "recipient" includes one who has been denied financial assistance. TVA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that TVA shall continue assistance during the pendency of such proceedings where such assistance was due and payable pursuant to an agreement therefor entered into with TVA prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue financial assistance.* No order suspending, terminating or refusing to grant or continue financial assistance shall become effective until (1) TVA has advised the recipient of the failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by